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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 30, 1998

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE960296

Ex Parte: Investigation of Electric
Industry Restructuring - Virginia
Electric and Power Company

ORDER ON MOTION FOR LEAVE TO DELAY

On Friday, April 24, 1998, Virginia Electric and Power Company ("Virginia Power" or "Company") filed a motion, supported by the Office of the Attorney General ("Attorney General") and the Commission Staff ("Staff"), requesting leave to delay filing rebuttal and surrebuttal testimony by two weeks each. By prior order, the Commission directed any interested party to file a response to the motion on or before Wednesday, April 29, 1998. Responses have been received from the Virginia Committee for Fair Utility Rates ("Committee"), the Southern Environmental Law Center ("SELC"), and the Apartment and Office Building Association of Metropolitan Washington ("AOBA").

The SELC and AOBA supported the requested extensions of filing dates, while the Committee opposed. The Committee notes that the period designated in the Commission's original

procedural schedule¹ for presentation of settlements has passed and that Virginia Power filed its application "more than 13 months ago." The Committee opposes "a delay of essentially indefinite duration." The Committee also opines that there is no reason why rebuttal testimony should not be filed on May 1, even if the Commission grants the extension.

In its pleading, AOBA "applauds the efforts of the Staff and Company to narrow the issues in a case which has become both procedurally and substantively complex." AOBA also states, however, its concern that the presently contemplated two-week period between the filing of rebuttal and surrebuttal testimony may not be adequate. AOBA notes that "key elements of the Company's position on issues vital to this proceeding are expected to surface for the first time in rebuttal testimony" and that it is difficult for parties to assess the extent to which discovery of Virginia Power might be necessary. AOBA submitted a proposed procedural schedule culminating in hearings in July. AOBA also submits that settlement discussions must be expanded to accommodate additional parties. This sentiment was echoed in the SELC pleading.

Finally, VMH, Inc. ("VMH") has filed a motion for leave to file rebuttal testimony, although it did not file direct testimony.

¹ This order was entered on April 30, 1997.

NOW THE COMMISSION, having considered the pleadings, and the applicable statutes and rules, is of the opinion that the Motion for Leave to Delay should be granted, and a revised procedural schedule should be established so that discussions can continue among the parties. The Commission is further of the opinion that other parties should have the opportunity to participate in these discussions, either for "settlement" or to "narrow the issues." While the Commission will not direct the scope of such discussions, the Commission strongly encourages the parties now in such talks to bring others into the discussions. The Commission is also of the opinion that the parties should report on the state of those discussions, as set out below. Finally, the Commission is of the opinion that VMH's rebuttal testimony should be received.

Accordingly, IT IS ORDERED THAT:

- (1) The Motion for Leave to Delay is granted;
- (2) All rebuttal testimony shall be filed on or before May 18, 1998, and shall be served on the parties and Staff on or before that date;
- (3) All surrebuttal testimony shall be filed on or before June 12, 1998, and shall be served on the Staff and parties on or before that date;
- (4) The hearing herein shall begin at 10:00 a.m. in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia, Thursday, July 9, 1998.

(5) On or before May 12, 1998, any request to revise the procedural schedule established herein shall be filed and served on the parties. Any party desiring to respond to such request shall file and serve a copy of such response on the parties on or before May 14, 1998;

(6) On or before May 12, 1998, the parties shall present to the Commission either i) a report on the status of the discussions among themselves, or ii) an offer of settlement of some or all of the issues herein. The parties may also file a partial settlement and a report on the status of, or need for, continuing discussions;

(7) VMH may file its rebuttal testimony according to the schedule set out herein.

(8) This matter is continued for further orders of the Commission.